California Pollution Control Financing Authority
California Capital Access Program (CalCAP)

CERTIFICATION TO PARTICIPATE
IN THE STATE SMALL BUSINESS CREDIT INITIATIVE PROGRAM

Name of Financial Institution: _____

Taxpayer ID Number/EIN: _____ CalCAP Lender ID#_____

Contact Person Name: _____ Title: _____

Address: _____ City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____ Email_____

Pursuant to the State Small Business Credit Initiative Act of 2010 (SSBCI), this Participating Financial Institution:

- Certifies that it will make available to the United States Treasury and Treasury Inspector General all books and records related to the use of the Allocated Funds until January 31, 2020, or until the completion of any related audit or investigation, subject to the Right of Financial Privacy Act (12 U.S.C. § 3401 et seq.) as applicable;

- Certifies that it is in compliance with the requirements of 31 C.F.R. §103.121, the Right to Financial Privacy Act (12 U.S.C. § 3401 et seq.), the Small Businesses Jobs Act of 2010 and the most current SSBCI Policy Guideline available at http://www.treasury.gov/resource-center/sb-programs/Pages/ssbci.aspx.

- As required by Section 3011(c)(2) of the Small Business Jobs Act of 2010, the private entity certifies to the State that the Principals of the private entity have not been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)). *For the purposes of this Certification, Principal means the following: if a sole proprietorship, the proprietor; if a partnership, each managing partner and each partner who is a natural person and holds a 20% or more ownership interest in the partnership; and if a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives or officers of the entity, and each natural person who is a direct or indirect holder of 20% or more of the ownership stock or stock equivalent of the entity;* and

- Certifies that it will adhere to the following financial institution criteria for all CalCAP enrollments: (1) the loan or investment has not been made in order to place under the protection of the state program prior debt that is not covered under the state program and that is or was owed by the borrower to the lender or to an affiliate of the lender, (2) the loan or investment is not a refinancing of a loan or investment previously made to that borrower by the lender or an affiliate of the lender, and (3) the participating financial institution is not attempting to enroll the unguaranteed portions of SBA-guaranteed loans; and

- Certifies that all staff involved in the SSBCI enrolled loans attend an annual anti-fraud and ethics training and provide CPCFA with written verification.

- Certifies to have a written agreement in place requiring the maintenance of enrolled loan records until at least January 31, 2020.

- Certifies that it will obtain the following borrower certifications for all enrollments :

  1. Borrower is a small business concern as defined in 4 CCR §8070(r) of the California Code of Regulations.
  2. Borrower obtained a loan that is for a business activity that has its primary economic effect in California as defined in 4 CCR §8070(o) of the California Code of Regulations.
  3. Borrower agrees to allow the participating financial institution to provide information from financial records of the Borrower upon request of the Executive Director of the CPCFA.
  4. Borrower has no legal, beneficial or equitable, interest in the fees or the matching contribution.
  5. For CalCAP the maximum loan amount is $5,000,000 and the Borrower is limited to a maximum of $2,500,000 enrolled over a 3 year period. For other credit support programs the maximum loan amount is $20,000,000 and the maximum contribution is $5,000,000.
  6. Borrower was notified, in writing, if the participating financial institution's share of the fees for the qualified loan were paid by the Borrower.
  7. Borrower has secured or made application for all applicable licenses or permits needed to conduct its business.
  8. Borrower has received the CPCFA/CalCAP Privacy Notice.
  9. The loan proceeds will be used for a "business purpose." Business purpose includes, but is not limited to, start up costs, working capital, business procurement, franchise fees, equipment, inventory, as well as the purchase, construction renovation or tenant improvements of an eligible place of business that is not for passive real estate investment purposes. The definition of business purpose excludes: activities that relate to acquiring or holding passive investments, such as commercial real estate ownership and the purchase of securities; and lobbying activities, as defined in Section 3(7) of the Lobbying Disclosure Act of 1995, P.L. 104-65, as amended.

10. The loan proceeds will not be used to:
    a) Repay a delinquent federal or state income taxes unless the Borrower has a payment plan in place with the relevant taxing authority.
    b) Repay taxes held in trust or escrow, e.g. payroll or sales taxes.
    c) Reimburse funds owed to any owner, including any equity injection or injection of capital for the business' continuance.
    d) Purchase any portion of the ownership interest of any owner of the business.

11. Borrower is not:
    a) An executive officer, director, or principal shareholder of the lender.
    b) A member of the immediate family of an executive officer, director, or principal shareholder of the lenders.
    c) A related interest of an executive officer, director, principal shareholder, or member of the immediate family.

    For the purposes of these three restrictions, the terms "executive officer", "director", "principal shareholder", "immediate family", and "related interest" refer to the same relationship to a lender as the relationship described in part 215 of title 12 of the Code of Federal Regulations, or any successor to such part.

12. Borrower is not:
    a) A business engaged in speculative activities that develop profits from fluctuations in price rather than through normal course of trade, such as wildcatting for oil and dealing in commodities futures, unless those activities are incidental to the regular activities of the business and part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the business.
    b) A business that earns more than half of its annual net revenue from lending activities; unless the business is a non-bank or non-bank holding company Community Development Financial Institutions.
    c) A business engaged in pyramid sales, where a participant's primary incentive is based on the sales made by an ever-increasing number of participants.
    d) A business engaged in activities that are prohibited by federal law or applicable law in the jurisdiction where the business is located or conducted. (Included in these activities is the production, servicing, or distribution of otherwise legal products that are to be used in connection with an illegal activity, such as selling drug paraphernalia or operating a motel that knowingly permits illegal prostitution).
    e) A business engaged in gambling enterprises, unless the business earns less than 33% of its annual net revenue from lottery sales.

13. As required by Section 3011(c)(2) of the Small Business Jobs Act of 2010, the private entity certifies to the State that the Principals of the private entity have not been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)).

* All capitalized terms are defined in either Section 1.1 of the California Small Business Credit Initiative Allocation Agreement or 4 CCR §8070.

Any Participating Financial Institution which fails to comply with the above certifications will be suspended from receiving SSBCI contributions.

Authorized Signature   Date

Title

California Pollution Control Financing Authority Use Only	
Analyst initials	Date Received